

REMARKS

Applicant has reviewed the Office Action dated August 22, 2002.

Claims 1 and 15 are amended. No claims are cancelled. Claims 30-50 are added. As a result, claims 1 - 50 are now pending in this application.

Rejections Under 35 U.S.C. § 103

Claims 1 - 3, 6, 15 - 18, 21 and 22 were rejected under 35 U.S.C. § 103(a) for obviousness over Combs et al. (U.S. Patent No. 5,957,861). Applicant traverses. The rejection states:

The term initiate/adjust is considered to be broad enough to encompass any change to the operation of an implanted pacemaker. Further, the terms 'resynchronization therapy' and 'cardiac contractility' are similarly broad enough to 'read on' a pacemaker which makes any type of change in operation, as is contemplated by the invention of Combs.

(Office Action ¶2.) However, claims 1 - 3, 6, 15-18, 21 and 22 have been amended to recite or incorporate responding to detected edema by initiating or adjusting at least one of a cardiac resynchronization therapy, which coordinates a spatial nature of a depolarization associated with a heart contraction in at least one heart chamber, or a cardiac contractility modulation therapy, which includes delivering electrical energy to a portion of a heart during a refractory time period of the portion of the heart. (See Application at pages 9-11.) Applicant can find no such disclosure, teaching, or suggestion in Combs et al. Moreover, to the extent that this single-reference obviousness rejection relies on the Examiner's personal knowledge, Applicant objects to any such reliance on Official Notice and respectfully requests a reference supporting such a teaching or suggestion. See M.P.E.P. § 2144.03. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Allowable Subject Matter/ New Claims

Claims 4, 5, 7 - 14, 19, 20 and 23 - 29 were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant presents new claims 30-50, which Applicant believes to meet the spirit of

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AMENDMENT AND RESPONSE

Serial Number: 09/919,483

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Title: CARDIAC RHYTHM MANAGEMENT SYSTEM FOR EDEMA

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Dkt: 279.374US1

the subject matter indicated to be allowable, but which include other clarifying amendments Applicant believes these new claims 30-50 are allowable in view of the Office Action. Accordingly, Applicant respectfully requests allowance of these claims.

CONCLUSION

No claims are canceled hereby. Claims 1 and 15 are amended herein. Claims 30-50 are added hereby. Claims 1-50 are now pending. Applicant has enclosed a check in the amount of \$1,134.00 to cover the fee for adding additional claims. Please charge any additional fees deemed necessary to Deposit Account 19-0743.

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6951) to facilitate prosecution of this application.

Respectfully submitted,

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By their Representatives,

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Date Nov. 22, 2002

By



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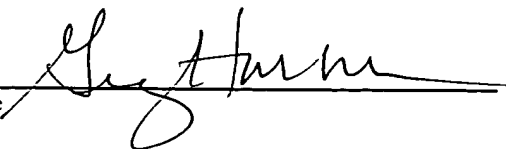
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 22nd day of November, 2002.

Name

GREG HANSON

Signature



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